

COMMISSION ON COMMON OWNERSHIP COMMUNITIES
 Minutes of the Monthly Meeting
 1401 Rockville Pike, 5th Floor, Rockville, MD 20850
 November 7, 2018

The monthly meeting of the Commission on Common Ownership Communities was called to order at 7:06 pm by Chairman Mark Fine

Commissioners present: BURROWS, ETHIER, FINE, FISHBEIN, GELFOUND, MALAMUD, MYO KHIN, OXENDINE, PERPER, STEINBACH, VALLEY, VINEY, WINEGAR

Panel Chairs present: Brian Fellner, Shuaa Tajammul

Commissioners absent: Branda and Gardner

Staff present: Clarence Snuggs, Director; Walter Wilson, Associate County Attorney; Tim Goetzinger, Chief of Finance and Administration; Mark Anders & Ife Fabayo

Guests: Ben Smith [Crest of Wickford Condo Assoc], Michael Neary [Lerch Early Brewer], and Diane Knott, Tom Conger, Natalie Brodsky, Jay Harding, Carolee Rowse, Barbara Gould, Norman Holly, Valerie Williams, Patricia Mitchell, Henry Jordan, David Frager, Carole Portis, Janice McLean, LD Cruz, John Feldman, Woody Woodson, Jerry Joyce, Sheryl Katzman, and Marybeth Ardike [Leisure World]

1. **Remarks by DHCA Director, Clarence Snuggs:** The Director thanked the commissioners and panel chairs for their voluntary service to the county. A Montgomery County Service lapel pin was awarded to Commission Chair, Mark Fine, DHCA Chief of Finance & Administration, Tim Goetzinger, Associate County Attorney, Walter Wilson, and to staff members Mark Anders & Ifeoluwapo Fabayo. The Director also singled out for praise the ad hoc task force on at-risk communities for their great efforts and commitment to the issue of producing and preserving quality housing in the county. Task force members include Dr. Rand Fishbein, Aimee Winegar, Marietta Ethier, Ilana Branda, Vicki Vergagni, David Gottesman, and Steve Brown.
2. **Minutes approved:** Commissioner Burrows moved to approve the minutes of the October 3, 2018 monthly meeting as presented. Commissioner Myo Khin seconded, and minutes were approved by majority vote; Commissioners Oxendine, Gelfound, and Winegar abstained.
3. **OPEN FORUM:** Ben Smith [Crest of Wickford Condo Assoc] was present to ascertain jurisdiction status of a complaint against his association; Sheryl Katzman [Leisure World] asked why meetings and hearings do not have microphones to amplify discussions.
4. **Jurisdiction - Default cases:**
2019-011 Churchill East Village v. Jose Hernandez: Architectural complaints: Respondent did not answer complaint; Commissioner Winegar moved to **accept jurisdiction and refer the case to a Default Hearing**, Commissioner Fishbein seconding, approved by unanimous vote.

5. Jurisdiction - Contested cases:

#2019-015, James J. Stevens, Jr. v. the Crest of Wickford Condominium – Motion to move case out of agenda order approved. Commissioner Winegar moved to accept jurisdiction, seconded by Commissioner Ethier. Discussion followed regarding decision not to send parties to mediation due to exigent circumstances affecting roofs, and a citation issued against the association for violation of the stay. The commission voted to **accept jurisdiction and refer the case to an expedited Hearing Panel; stay to remain in place**. Motion passed with a majority vote, Commissioners Gelfound and Viney opposed, Commissioner Steinbach abstained.

#2018-096, Andrea Shapiro v. Midtown Bethesda North Condominium – Commissioner Gelfound moved to accept jurisdiction, seconded by Commissioner Fishbein. After discussion the commission voted unanimously to **accept jurisdiction and refer the case to a Hearing Panel**.

#2019-002, Sarah Austin v. Villas at Willow Cove Condominium – Commissioner Fishbein moved to accept jurisdiction, seconded by Commissioner Burrows. After discussion the commission voted unanimously to **accept jurisdiction and refer the case to a Hearing Panel**.

#2019-099, David and Elina Zlotchenko v. DuFief Homes Association – Commissioner Fishbein moved to accept jurisdiction, seconded by Commissioner Malamud. After discussion the commission voted to **accept jurisdiction and refer the case to a Hearing Panel**. Motion passed with a majority vote, Commissioners Gelfound and Viney opposed.

#2019-012, Sheryl Katzman v. Leisure World of Maryland Corp & Leisure World Community Corp – Commissioner Ethier moved to deny jurisdiction, seconded by Commissioner Gelfound. Discussion followed. It was proposed that Complainant has no standing because she is an individual owner. Most master association's members are the sub-associations, not individual owners. A class action suit was filed in Circuit Court on the same legal issues prior to this filing with the CCOC. County Attorney Wilson advised that Circuit Court would be better able to deal with the circumstances of the case. A decision by the CCOC might also create "issue preclusion", a common law doctrine that prevents a party to a lawsuit from re-litigating an issue once it has been decided in a previous case. The commission **denied jurisdiction over the complaint** by majority vote, Commissioners Fine and Viney recusing.

Commission policy: The commission asked staff to provide only the complaint and response, and mediation reports (if any), not the full CE1, for determination of jurisdiction of a complaint. Any commissioner who needs more information can refer to the Case Management System.

6. **D&Os Issued:** n/a
7. **D&O on Appeal (Circuit Court for Montgomery):** #2018-037 Hypolite v. Longmead Crossing HOA
8. **County Attorney's report:** Decision & Order for Lima v. Carter Hill is under review; County Executive has accepted commission's recommendation not to intervene in #2018-037 Hypolite v. Longmead Crossing HOA.
9. **DHCA Staff report:** Monthly data report presented by Tim Goetzinger; department is aware of 9 un-registered communities (800 units) being sent a second notice. Citations to follow.
10. **Chair's report:** Rees Broome is sponsoring a training class for their clients on November 13th; DHCA offering monthly training class on November 19th; OCOC assisting delinquent association in Gaithersburg with training, budgeting, and communications; Election of Chair and Vice-Chair to be held at January 9, 2019 commission meeting. Commissioners who would like to be considered for

either post should advise Mark Fine by December 1; Commissioners Winegar and Fishbein are completing their last term on the commission. With new appointments we have a full complement, including panel chairs and mediators, all of which facilitates cases moving through more quickly.

Staff introductions: James Dezi and Nicolette Fahs; **Commissioners must volunteer for committees**

- Contact Mark Fine as soon as possible.

11. Committee reports:

Education Committee [Commissioner Viney, Chair]:

- a) Training at Leisure World for LWCC board members on December 7th.
- b) "How to Hold a Closed Meeting" – Commissioner Burrows moved to adopt the guide, seconded by Commissioner Oxendine. Motion passed with unanimous vote.
- c) Fall Newsletter: Topics include meetings, reasonable notice, and "closed meetings".
- d) Committee meeting: Tuesday, November 13, 3-5pm in Shark Tank, all commissioners welcomed to attend.

IT Committee [Commissioner Burrows]: Members to look at next phase of requirements for Case Management System

Legislative Committee [Commissioner Branda, Chair]: no report

Process & Procedures Committee [Commissioner Ethier, Chair]: no report

11. Old business: none

12. New business: none

13. Adjourned at 8:51pm

Next meeting Wednesday, December 5, 2018 at 7:00pm

Submitted by Kathy Viney,
Recording Secretary